

Rye City Planning Commission Minutes

July 22, 2003

1 **PRESENT:**

2 Michael Klemens, Chairman
3 Barbara Cummings, Vice-Chair
4 Franklin Chu (partial attendance)
5 Peter Larr
6 Patrick McGunagle
7 Martha Monserrate
8

9 **ABSENT:**

10 Hugh Greechan
11

12 **ALSO PRESENT:**

13 Christian K. Miller, AICP, City Planner
14

15 **I. HEARINGS**

16 **1. Osborn Parking Modification**

17 Chairman Klemens read the public notice.

18 Frank McCullough (applicant's attorney) provided an overview of the application noting that
19 it involves the construction of 47 additional parking spaces interspersed throughout the
20 Osborn campus. Mr. McCullough noted that all parking spaces would be at grade and
21 would not result in removal of any trees. He added that the application had been revised
22 from the Commission's previous meeting. That prior plan included 50 parking spaces, but
23 would have resulted in the loss of a significant number of large trees.
24

25 Jim DeRito (applicant's engineer) reviewed the site plan for the Commission. He noted
26 that approximately 13 parking spaces would be provided on the southern half of the
27 property and would be screened with landscaping from Boston Post Road. Mr. DeRito
28 noted that there would be no construction within 160' feet of Boston Post Road, which is
29 consistent with the original site plan approval for the Osborn facility. Mr. DeRito added that
30 many of the proposed parking spaces would use a grass-crete paving material to reduce
31 storm water runoff.
32

33 There were no public comments.
34

35 On a motion made by Peter Larr, seconded by Barbara Cummings and carried by the
36 following vote:
37

38 AYES: Michael Klemens, Barbara Cummings, Peter Larr, Patrick McGunagle,
39 Martha Monserrate

40 NAYS: None

41 RECUSED: None

42 ABSENT: Franklin Chu, Hugh Greechan
43

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the Planning Commission took the following action:

ACTION: The Planning Commission closed the public hearing on modified final site plan and use permitted subject to additional standards and requirements application number SP274.

2. 14 Lake Road

Vice-Chair Cummings recused herself from the discussion of this matter and left the hearing room.

Chairman Klemens read the public notice.

Alan Pilch (applicant's environmental consultant) provided an overview of the application noting that it involved the construction of an addition to an existing residence located at 14 Lake Road. Mr. Pilch indicated that the applicant revised its site plan to reduce the building footprint from an earlier site plan submission. Mr. Pilch requested that given the substantive nature of the revised plans that the Planning Commission keep the public hearing open.

Mr. Pilch stated that most of the property is located within a 100-foot wetland buffer area. The wetlands consists of the adjacent pond and a small pocket wetland located on the corner of the property. Mr. Pilch stated that wetland mitigation plantings would be provided with a ratio of more than twice the amount of added impervious coverage on the property. Mr. Pilch noted that the existing carport on the property, which is in poor condition, would be removed and replaced with wetland plantings.

A resident of 240 Breevort indicated concern with the possible impact that the proposed residence may have on subsurface drainage conditions. She noted that she lives across the street from the subject property and that there is an underground water condition that results in periodic flooding in her garage. She requested that the design of the proposed residence not aggravate this condition or cause additional flooding on her property.

On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the following vote:

AYES: Michael Klemens, Peter Larr, Patrick McGunagle, Martha Monserrate

NAYS: None

RECUSED: Barbara Cummings

ABSENT: Franklin Chu, Hugh Greechan

the Planning Commission took the following action:

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1 **ACTION:** The Planning Commission continued the public hearing on wetland permit
2 number WP129 to its September 9, 2003 meeting.
3
4

3. Warner Residence

5
6
7 Chairman Klemens read the public notice.
8

9 Jamie Warner (property owner) stated that she is seeking wetland permit approval to install
10 a pump in piping to drain excess surface water on her property. Ms. Warner noted that the
11 excess surface water was caused by recent illegal fill activity on her neighbor's property.
12 Ms. Warner stated that the application is necessary to address health and safety concerns.
13

14 There were no public comments.
15

16 On a motion made by Barbara Cummings, seconded by Peter Larr and carried by the
17 following vote:
18

19 AYES: Michael Klemens, Barbara Cummings, Peter Larr, Patrick McGunagle,
20 Martha Monserrate

21 NAYS: None

22 RECUSED: None

23 ABSENT: Franklin Chu, Hugh Greechan
24

25 the Planning Commission took the following action:
26

27 **ACTION:** The Planning Commission closed the public hearing on wetland permit
28 application number WP130.
29
30

4. 1 Macy Street

31
32
33 Chairman Klemens read the public notice.
34

35 Dave Peitro (applicant's engineer) stated that the application involves the expansion of a
36 parking facility to address parking demand associated with the existing office use on the
37 property. Mr. Peitro explained that the site plan has been revised to provide additional
38 storm water drainage measures as requested by the Planning Commission.
39

40 Mr. Lamontagne (applicant's drainage engineer) provided an overview of the proposed
41 drainage system noting that it involves the installation of sub-surface infiltrators. He noted
42 that these infiltrators would collect storm water from the expanded parking area, which
43 would expand the existing parking area by approximately 60%. Mr. Lamontagne noted that

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1 all storm water would be directed to a new catch basin that would connect to the
2 subsurface infiltrators. He noted that the system was designed to accommodate a ten-year
3 storm event.

4
5 The Planning Commission inquired as to the notification of the public hearing for the
6 application. The City Planner responded that a notice of the public hearing was sent to the
7 Town of Harrison as well as to the management company of the condominium complex
8 located opposite the site in the Town of Harrison. The City Planner indicated that no
9 comments had been received by either party.

10
11 There were no public comments.

12
13 On a motion made by Barbara Cummings, seconded by Peter Larr and carried by the
14 following vote:

15
16 AYES: Michael Klemens, Barbara Cummings, Peter Larr, Patrick McGunagle,
17 Martha Monserrate

18 NAYS: None

19 RECUSED: None

20 ABSENT: Franklin Chu, Hugh Greechan

21
22 the Planning Commission took the following action:

23
24 **ACTION:** The Planning Commission closed the public hearing on modified final site
25 plan application number SP271.

26 27 **II. ITEMS PENDING ACTION**

28 29 **1. Beechwind**

30
31 Due to a prior commitment Commission member Chu stayed at the meeting only for
32 discussion of this matter.

33
34 The Commission noted the receipt of two sets of plans one prepared by Rex Gedney and
35 the other set prepared by Studer Design Associates. The Commission noted
36 inconsistencies between the two plans. Rex Gedney (applicant's architect) noted the
37 Studer plans reflect only the proposed landscaping.

38
39 Mr. Gedney provided an overview of the changes included on the revised plan addressing
40 the Planning Commission comments raised at its last meeting. Mr. Gedney noted that the
41 proposed building configuration had been modified to stagger the building set backs from
42 Milton Road. He noted that this revision addressed the Commission's concern regarding
43 the "cookie cutter layout" of the proposed subdivision. Mr. Gedney also noted that a wider

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1 view corridor was created between the two dwelling units to create greater visual access
2 from Milton Road to the harbor. With respect to traffic concerns, Mr. Gedney noted that the
3 plan had been revised to provide only three curb cuts rather than the previously proposed
4 four curb cuts. He noted that a common driveway would be shared for two of the lots. To
5 address the need for parking for the proposed public access Mr. Gedney stated that the
6 applicant is seeking permission from the nearby Municipal Boat Basin to secure five
7 parking spaces on that property. Mr. Gedney also stated that five permits could also be
8 secured for Rye residents at the nearby municipal parking lot. Mr. Gedney concluded his
9 presentation by providing an overview of the proposed site development and the reduction
10 in impervious surfaces as compared to existing conditions on the property.

11
12 The Commission discussed the impact of the proposed development on visual access to
13 the water. The Commission debated whether the proposed configuration would enhance
14 visual access from Milton Road to Milton Harbor. The Commission discussed with the
15 applicant whether the proposed view corridor could be increased in width. The
16 Commission agreed that the new stonewall and fence along the site frontage should be
17 reduced in height. Albert Pirro (applicant) responded that the fence and wall was
18 conceptual and that its height could be reduced. Mr. Pirro also noted that it was his desire
19 to increase the width of the view corridor but that it was not practically possible to achieve a
20 larger width without compromising the set back between the units. He noted that a further
21 shifting of the proposed units would have a significant economic impact.

22
23 The Commission continued to debate alternative site plan design to enhance the visual
24 access of the proposed development. The Commission discussed possibly relocating the
25 pedestrian access to the center of the property within the view corridor. Some
26 Commission members felt that this design would enhance both the visual and pedestrian
27 access to the water. Some members further noted that four on site parking spaces to
28 support the proposed pedestrian access could also be incorporated within the center view
29 corridor. Those members reasoned that providing the visual access, off street parking and
30 pedestrian access was necessary from an LWRP Coastal Consistency prospective to
31 offset and compensate for the loss of a water dependent use on the Shongut property.

32
33 Mr. Pirro responded that the proposed design changes would not be acceptable. He
34 noted that the pedestrian access through the center of the property would severely limit the
35 privacy of future property owners. He also noted that the proposed pedestrian access was
36 in a location to best service the docks that are to be set aside for public use. Mr. Pirro
37 stated that parking could not practically be provided on the property. He further suggested
38 that public parking may not be desirable to residents in the area. Mr. Pirro expressed
39 concern that requests for significant modifications to the plan would jeopardize the
40 economic feasibility of the development. He stated that the contract of sale for the Shongut
41 property expires at the end of the month and that he would be reluctant to extend that
42 contract if significant site development modifications are required by the Planning
43 Commission. Mr. Pirro also stated that he is willing secure parking permits from either the

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1 Municipal Boat Basin or the City Parking Lot in the area to address the parking needs
2 associated with the proposed pedestrian access.

3
4 The Commission noted that parking at both of those locations is currently limited and that
5 spaces would be not guaranteed, particularly during summer months. The City Planner
6 presented a conceptual sketch to demonstrate that four parking spaces could be provided
7 on the lot adjacent to the public access. The City Planner noted, however, that while such
8 parking could be physically provided on the site that it would essentially create a public
9 parking lot in the front yard of a proposed single-family residence. Mr. Pirro stated that
10 such a parking configuration would not be acceptable.

11
12 With respect to view corridors, Mr. Gedney noted that few properties in the area provide
13 visual access to the water. Mr. Gedney noted that few homes in the area have forty feet of
14 separation between units to provide for visual access. He also noted that the existing
15 Municipal Boat Basin has a large hedgerow around its perimeter that blocks views to the
16 water.

17
18 The Commission concluded its discussion by reviewing a draft memorandum from the
19 Commission to the Zoning Board of Appeals prepared by the City Planner. The
20 Commission discussed the content of the memorandum with suggested revisions. The
21 Commission agreed that the proposed application was consistent with the City's LWRP
22 subject to the following conditions:

- 23
24 • The existing Gedney store should be preserved and restored with its historic
25 existing character.
- 26
27 • Public access should be provided consistent with the location and configuration
28 shown on the most recent site plan.
- 29
30 • The approximately 10 or 12 boat slips on the northern half of the property should be
31 set aside as public use as agreed to by the applicant.
- 32
33 • Four public parking spaces should be provided on the property. However, an off
34 site parking solution to provide public parking in connection with the public access
35 could also be acceptable.
- 36
37 • The view corridors shown on the applicant's most recent site plan should be
38 provided and that appropriate restrictions be established to prohibit or restrict the
39 placement of structures or plant material that block views.
- 40
41 • There should be no more than three curb cuts on Milton Road serving the proposed
42 lots.
- 43

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On a motion made by Michael Klemens, seconded by Peter Larr and carried by the following vote:

AYES: Michael Klemens, Franklin Chu, Barbara Cummings, Peter Larr, Patrick McGunagle, Martha Monserrate
NAYS: None
RECUSED: None
ABSENT: Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission adopted (with amendments) PC memorandum 2-2003 providing an advisory LWRP recommendation to the Zoning Board of Appeals regarding application number SP265.

2. Osborn Parking Modification

The Planning Commission discussed the proposed landscape plan and recommended that more ornamental plant material be provided consistent with the existing landscape character of the site. Jim DeRito (applicant's engineer) agreed to the Commission's request.

The commission discussed the need for a earthern berm to better screen the parking from Boston Post Road. Jim DeRito responded that it was the applicant's belief that the proposed landscape material sufficiently accomplished screening and that a berm was not necessary.

The Commission inquired as to whether the proposed expanded parking would meet the Osborn's anticipated future parking needs. Mark Zwerger (Osborn Home representative) stated that the proposed plan should meet anticipated parking needs for Osborn employees and residents.

Jim McGee (CC/AC representative) stated that there were no environmental concerns with the proposed project.

On a motion made by Martha Monserrate, seconded by Patrick McGunagle and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Peter Larr, Patrick McGunagle, Martha Monserrate
NAYS: None
RECUSED: None

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1 ABSENT: Franklin Chu, Hugh Greechan

2
3 the Planning Commission took the following action:

4
5 **ACTION:** The Planning Commission conditionally approved modified final site plan
6 and use permitted subject to additional standards and requirements
7 application number SP274.
8

9 3. 14 Lake Road

10
11 The Planning Commission discussed the small pocket wetland on the corner of the
12 property. The Commission questioned where the water supply for this wetland came from
13 and whether it was from a nearby City storm drain. The Commission suggested that
14 additional plant material or modifications to this wetland might be beneficial in providing
15 some additional water quality treatment. Allan Pilch (applicant's engineer) stated that he
16 was not certain as to the source of the water for the wetland but stated that it was likely
17 associated with surface water flows. The City Engineer noted that the City drainage
18 system bypasses the property and would not contribute to surface water in this location.
19

20 The Commission discussed the neighbor concerns regarding the potential impact of the
21 proposed development on sub-surface water conditions. The Commission requested that
22 Mr. Pilch provide a written statement addressing this issue and specifically discussing the
23 extent to which blasting would reoccur and whether such blasting or construction of a
24 proposed basement would adversely impact sub-surface water conditions in the area. Mr.
25 Pilch stated that he would provide this information for the Commission.
26

27 Jim McGee, (CC/AC representative) summarized the written comments of the CC/AC,
28 which comments are provided in the official record. The CC/AC noted concern the
29 proposed potential impact on sub-surface water conditions and questioned the need for
30 the increase impervious area.
31

32 To address storm water drainage concerns the Commission requested that the site plan
33 be revised to show the location of proposed dry wells. Mr. Pilch responded that dry wells
34 will be provided to the extent possible. He noted that most of the site consists of rock or is
35 burdened with a sewer easement that would prohibit the installation of such sub-surface
36 structures.
37

38 Mr. Pilch stated that the applicant's want to begin the process of seeking a variance from
39 the Zoning Board Appeals. The Commission indicated that seeking such variance at this
40 time was appropriate provided that there was no substantial change in the footprint of the
41 residence.
42
43

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4. Warner Residence

The Commission noted the uniqueness of this application and its limited applicability to other requests that it may receive in the future. The Commission noted that based upon its site inspection that there clearly was a surface water condition that has occurred since it last inspected the property approximately a year ago. There was evidence of mud and dead plants at the site that did not exist when the Commission inspected this property in connection with the adjacent Killian wetland violation application.

The Commission noted that a very small watershed supports the wetland area. This watershed extends is bound by the existing Warner residence, garage, driveway and adjacent properties. The Commission noted that to address this unique water condition that it was appropriate to divert this water to the City storm water drainage system. The Commission noted that this appeared to be the only practical alternative without directing storm water elsewhere that may impact down stream properties. The Commission reiterated that the subject application is limited in terms of its precedent and that it would not necessarily be relevant to other requests within the area.

Jim Nash (CC/AC representative) echoed the comment of the Commission and indicated that this application was unique and should not apply to other properties. Mr. Nash noted dead shrubs on the property indicating that the presence of water on the Warner property appears to have occurred recently.

The Commission discussed with the City Engineer the design of the proposed drainage system within Manursing Avenue. The City Engineer noted that the applicant should upgrade the pipe size to a minimum of 12 inches and that such an upgrade would be accepted into the City's storm water drainage system.

On a motion made by Martha Monserrate, seconded by Patrick McGunagle and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Peter Larr, Patrick McGunagle, Martha Monserrate

NAYS: None

RECUSED: None

ABSENT: Franklin Chu, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission conditionally approved wetland permit application number WP130.

5. 1 Macy Street

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The Commission reviewed the applicants revised site plan. The Commission found the proposed storm water drainage system acceptable and addressed their concerns regarding storm water quality.

On a motion made by Barbara Cummings, seconded by Peter Larr and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Peter Larr, Patrick McGunagle, Martha Monserrate

NAYS: None

RECUSED: None

ABSENT: Franklin Chu, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission conditionally approved modified final site plan application number SP271.

6. 55 Drake Smith

The Commission discussed the condition of the property noting considerable landscape debris within the gully along the property line. Stanley Kotyza (applicant) noted that the gully and entire property were cleaned last fall and that all material on the property is new. He stated that it was his understanding that area neighbors are placing this landscape material on his property without his permission. The Commission stated that they would like the applicant to remove this material as part of its mitigation plan. The Commission noted that this landscape material may also encroach on to the neighbor's property and that it should be removed as well. John Kirkpatrick (applicant's attorney) stated that he would prepare a letter to the adjacent neighbor (45 Drake Smith) seeking permission to remove material from the property.

The City Engineer noted that the applicant and another builder currently constructing a residence on the opposite end of Drake Smith have agreed to install a City sewer system to serve all properties on Drake Smith. The City Engineer noted that this system would be designed and installed at no cost to the City and that it would eliminate the use of septic systems for properties on this street. The Commission noted that the proposed sewer extension was viewed as an environmental enhancement.

The Commission discussed the proposed conservation easement on the rear of the property. The commission noted that this conservation easement might be a good candidate to be held by a third party such as the Westchester Land Trust. John Kirkpatrick

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1 indicated that he would consider this request and contact the Westchester Land Trust for
2 the receptiveness to this idea.

3 On a motion made by Michael Klemens, seconded by Peter Larr and carried by the
4 following vote:

5
6 AYES: Michael Klemens, Barbara Cummings, Peter Larr, Patrick McGunagle,
7 Martha Monserrate

8 NAYS: None

9 RECUSED: None

10 ABSENT: Franklin Chu, Hugh Greechan

11
12 the Planning Commission took the following action:

13
14 **ACTION:** The Planning Commission set a public hearing for wetland permit application
15 number WP131 for its September 9, 2003 meeting.

16 17 7. Cremonese

18
19 The Commission noted that the 100-foot buffer was the Blind Brook located on the
20 opposite side of Wapponoca Avenue. The Commission noted that the 100-foot buffer
21 encroached on a portion of the property where a driveway was proposed. The
22 Commission requested that the driveway be redirected to Natoma Street rather than
23 Wapponoca Avenue. The Commission added that this revision would mean that no
24 regulated activities would be within a 100-foot buffer. The Commission also noted that
25 eliminating driveway access on Wapponoca will eliminate the need for any permits from
26 Westchester County, which owns this road.

27
28 The Commission requested that the power lines along Natoma be relocated. They are too
29 close to the ground in their current configuration and should be moved for health and safety
30 reasons. Mr. Cremonese (applicant) stated that he has requested Con Edison to relocate
31 these wires.

32
33 On a motion made by Peter Larr, seconded by Patrick McGunagle and carried by the
34 following vote:

35
36 AYES: Michael Klemens, Barbara Cummings, Peter Larr, Patrick McGunagle,
37 Martha Monserrate

38 NAYS: None

39 RECUSED: None

40 ABSENT: Franklin Chu, Hugh Greechan

41
42 the Planning Commission took the following action:

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ACTION: The Planning Commission set a public hearing for subdivision and possible wetland permit application numbers SUB282 and WP135 for its September 9, 2003 meeting.

8. A'Mangiare Restaurant

The Commission requested that the existing terrace on the side of the building be removed. The commission noted that this terrace was constructed without proper permits by the prior owner and that it encroaches on to the City right-of-way. The Commission requested that the restored area be planted with appropriate plant material. Rex Gedney (applicant's architect) noted that the applicant would remove the terrace but that some physical barrier, such as a bollard, maybe necessary to protect the building from vehicles that use the adjacent sidewalk as a loading area. The Commission suggested that belgium blocks be installed between the sidewalk and the building to serve as a barrier and to define the small area adjacent to the building, with landscaping.

The Commission discussed refuse for the restaurant. The applicant indicated that they propose small trashcans that would be placed on the rear of the property and would be removed daily. These trashcans would be kept in the basement. The applicant indicated that this practice has been successful for a similar restaurant that they operate in Bronxville. The Commission agreed but noted that no plastic bags will be permitted to be placed on the property and that all refuse will be required to be contained inside the restaurant and shall only be placed outside for disposal.

On a motion made by Barbara Cummings, seconded by Martha Monserrate and carried by the following vote:

AYES: Michael Klemens, Barbara Cummings, Peter Larr, Patrick McGunagle, Martha Monserrate

NAYS: None

RECUSED: None

ABSENT: Franklin Chu, Hugh Greechan

the Planning Commission took the following action:

ACTION: The Planning Commission set a public hearing for final site plan application number SP277 for its September 9, 2003 meeting.

9. Minutes

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- 1 The Commission reviewed and approved minutes of its May 27 and June 10, 2003
- 2 meetings.
- 3
- 4